Supreme Court, U.S.
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No. ___-_____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

In re John Dennis Snavely -- Petitioner

v.

Attorney General of the
State of Alabama
City Attorney of the
City of Huntsville -- Respondents.

COVER

PETITION FOR A COMMON LAW WRIT OF HABEAS CORPUS

TO JUSTICE KENNEDY OR
OTHER APPROPRIATE JUSTICE

John Dennis Snavely, Sui Juris
23rd Judicial District
c/o 3516 Maggie Avenue
Huntsville, Alabama
(256) 852-3009

59 pp

A STATEMENT OF THE CIRCUMSTANCES AND QUESTIONS OF THIS HABEAS CORPUS

1. Is the restraint of your petitioner's Liberty by the City of Huntsville, Alabama and the State of Alabama lawful or unlawful?

The circumstances of this case are: 1) The City of Huntsville, Alabama and the State of Alabama has arrested your petitioner on numerous occasions for driving on revoked license when he did not have any license, driving without driver's license, driving without license tag, not wearing seat belt and failure to obey a lawful order of a police officer when your petitioner was not performing any act of commerce, that is he was not hauling any passengers or freight for hire, compensation or profit and the evidence proves such claims and the State concedes such fact; 2) the petitioner is claiming that State of Alabama is misapplying their Title 32 Motor Vehicle Code which is a commercial application to petitioner when he is only exercising his constitutional right to Liberty/travel where he is not within the scope and jurisdiction of the statute; 3) the statute is unconstitutional because it is in violation of the guaranteed rights of the Constitution for the United States of America; 4) Petitioner has been denied a habeas corpus hearing in State and Federal District court and has not received the justice that he deserves in any court.

LIST OF PARTIES

[X] All paties appear in the caption of the case on the cover page.

[ ] All paties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

In re John Dennis Snavely -- Petitioner
v.
Attorney General of the
State of Alabama
City Attorney of the
City of Huntsville -- Respondents.

PETITION FOR A COMMON LAW WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a common law writ of habeas corpus issue.

1. QUESTION OF THIS HABEAS CORPUS

1.1 Is the restraint of your petitioner's Liberty by the City of Huntsville, Alabama and the State of Alabama lawful or unlawful?

2. JURISDICTIONAL STATEMENT

2.1 The jurisdiction of this Court is invoked under the:

Constitution of the United States of America, Article III, Section 2. "The judicial Power shall extend to all "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, ... ; to controversies between ... .

In all Cases ... , and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. ... ."; and

the Original Judiciary Act of 1789, and Constitution of the United States of America,

ARTICLE I, Section 9, para. 2. "The privilege of Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it., and

Statute 28 U.S.C. 2254 only as an addition to and not as a subtraction from above said constitutional provisions.

2.2 The relevant facts establishing jurisdiction are:

2.2.1 Petitioner was and is in custody pursant to the judgment of a State court inviolation of the Constitution of theUnited States of America. Requirement of 28 USC 2254 (a).

2.2.2 Petitioner is claiming that he is in custody pursant to the judgment of a State court and has exhausted the remedies available in the courts of the State, that there is an absense of available State corrective process and the existence of circumstances rendering such process ineffective to protect the rights of your prisoner petitioner which satisfies the requirement of 28 USC 2254(b). Petitioner has, since the first instance in these cases and each successive arrest, been unlawfully restrained of his Liberty by the State of Alabama, petitioned for habeas corpus process in the State courts and further without adjucating any of the petitions for habeas corpus, the State has held trial and convicted petitioner in all of these cases. The State courts have denied any habeas corpus process, reversed the convictions on one of the issues that is not presented in these instance cases. Petitioner was not

afforded due process in State courts and all the issues presented in these instance cases the State courts did not properly address.

2.2.3 Petitioner does not know of and the State prosecution has never stated any State available procedure remedy that petitioner can use to raise the question presented in these cases thus petitioner has exhausted his remedies which satisfies the requirement of 28 USC 2254(c).

2.2.4 Petitioner's cases satisfies 28 U.S.C. Section 2254 (d) in that:

2.2.4.1 he is in custody pursuant to the judgments of State courts that are all of the cases combined into this petition:

CC95-14831 Mad. Cty. Cir Ct.
CC95-14832
CC97-1365
CC97-1366
CR97-1067 CCA
CV-1980038 Ala. S.CT.

Prosecution of Petitioner was started on Dec.12,1997, on the same set of facts, by the State in the following cases.

CC98-0236 Mad. Cty. Cir Ct
CC98-0238
CR99-0802 CCA
CV 1992189 Ala. S.Ct.

The prosecution was delayed by the State and on June 26, 1999, your petitioner appeared in circuit court when the trail was again delayed by the prosecution and at that time petitioner was arrested and imprisoned. Petitioner was tried

and convicted on these charges at a trial starting on Jan. 6, 2000.

then in Case no. TR-97-8071 Mad. Cnty DC
Case no. TR-97-8072
Case no. TR-97-8073
Case no. TR-97-8074

the State dropped two of the charges and held trial in May of 2000,

as CC99-1839 Mad. Cty. Cir Ct.
CC99-1840
CC99-1841
CC99-1842
CR99-1771 Ala. CCA
CV-1000130 Ala. S.CT.

where the State changed the charge of driving on revoked to driving without a license, held trial and convicted petitioner on the same set of facts,

2.2.4.2 there were determinations made after hearings on the merits of a factual issue,

2.2.4.3 there were State courts of competent jurisdiction involved in making determinations in proceedings to which your applicant for the writ, and the State and agents thereof are parties,

2.2.4.4 there is written opinion, and reliable and adquate written dicta, some of which is correct and some is not correct, and some is contradicting;

2.2.4.5 Petitioner meets the standards of 28 U.S.C. Section 2254(d)

(1) The merits of the factural dispute were not resolved in the State court hearing in that the State evidence entered into admission at the trial did not show any evidence that Snavely was hauling any freight and/or passengers, nor is there any evidence in the trial court record to such fact, there is admission by police officer to such fact that Snavely was not hauling any freight and/or passengers, and in the trial transcript of CC99-1839;1840;1841;1842, and at page 24 the trial court admits that the act complained of is a commercial application and makes a contradictory statement by saying the motor vehicle code does include non-commercial drivers, and that is the main issue to be resolved in the federal courts. The State, not the State Legislature, is misapplying the statute, incorrectly interpreting the law, and instead they are making up law and violating the constitutions;

(2) The factfinding procedure employed by the State court was not adequate to afford a full and fair hearing. The trial court would not allow Snavely to have compulsory process to compel the State to testify to facts of the cases. The trial court would not allow Snavely to present his theory of the law to the jury or enter into evidence in his favor;

(3) The material facts were not adequately developed at the State court hearing in that Snavely was not allowed to defend himself before a jury or enter any evidence that would prove that he was not guilty as charged;

(4) The State court lacked jurisdiction over Snavely in the State court proceeding;

(6) Snavely did not receive a fair and adequate hearing in the State court proceedings as explained in his pleadings; and

(7) Snavely was otherwise denied due process of law in the State court proceedings;

(8) The State's determination of the factural issues in these cases are not supported by the record, however Snavely's arguments in his pleadings support his position in all his cases.

3. OPINIONS BELOW

Your petitioner has tried using the lower courts, federal and State, without receiving any habeas corpus hearing or justice.

[x] For the cases that were in the federal courts

The opinion of the United State court of appeals appears at Appendix A, B and C to the petition and is unpublished.

The opinion of the United States district court appear at Appendix D, E, F, and G to the petition and is unpublished.

[x] For the cases that were in the federal courts:

The date of which the United States District Court denied Petition for writ of habeas corpus on ground that petition was "moot" is stated in Magistrate Judge's Report and Recommendation of Feb.19, 2002, a copy appears in Exhibit N0SC6, Appendix F, was March 7, 2002 and a copy of the order appears in Exhibit N0SC4, Appendix D.

The date of which the United States District Court entered an order granting certificate of appealability was April 9, 2002 and a copy of the order appears in Exhibit N0SC7, Appendix G.

The date of which the Unites States Court of Appeals

entered an orded affirming the judgment of the district court on the ground that petitioner was not "in custody", (district court said case was "moot") was September 9, 2002 and a copy of ths order appears in Exhibit N0SC1, Appendix A.

Ths date of which the United States Court of Appeals entered an order denying petitioner motion to enter Addendum to Petition for Rehearing was December 30, 2002 and a copy of the order appears in Exhibit N0SC2, Appendix B.

The date of which ths United States Court of Appeals entered an order denying petitioner his Petition for Rehearing was December 30, 2002 and a copy of the order appears in Exhibit N0SC3, Appendix C.

4. STATEMENT OF HOW THE WRIT WILL BE IN AID OF THE COURT'S ORIGINAL JURISDICTION UNDER THE JUDICIAL POWER OF THE CONSTITUTION FOR THE UNITED STATES OF AMERICA

4.1 This writ will be in aid of the Court's original juridiction because your Petitioner, a Citizen of Pennsylvania within the meaning of the original constitution(1787), needs to have his constitutional rights to Liberty protected.

4.2 The State of Alabama is a party to this action.

4.3 The constitutional right to Liberty in the form of travel is the question presented in this writ to be heard.

4.4 Your Petitioner has not received any justice in any other court.

5. ACTION IN OTHER COURTS

5.1 Your Petitioner, on six separate incidents, has been unlawfully arrested, imprisoned, prosecuted and convicted in the City f Huntsville, Alabama and State of Alabama courts, then your Petitioner appealed through the Court of Criminal Appeals to the State of Alabama Supreme Court where that court reversed the driving on revoked driver's license conictions and let the driving without driver's license, driving without license tag, and not wearing seat belt convictions stand. Your Petitioner then petitioned the United States District Court for habeas corpus relief on each of the six separate incidents where the District Court combined all of the actions into this one case and denied a habeas hearing on ground that the case is "moot". When the United States District court denied your Petitioner a habeas corpus hearing or relief, he appealed to the Appeals courts to review the District court's decision that denied him a habeas corpus hearing or relief. The Appeals court affirmed the District court saying that petitioner was not "in custody, and denied him a hearing on the merits of his case even though the District court granted petitioner his certificate of appealability because there are no "collateral consequences" in misdemeanor traffic violations. The State courts have made errors by misapplying statutory and case law to your Petitioner. The State courts are incorrectly saying that Petitioner is required to have a license and is within the jurisdiction of their motor vehicle code. The lower federal and State courts have made errors by misapplying constitutional law, the statutes and the doctrine of Stare Decisis law to Petitioner as is discussed by this Court in the recent case of Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995) where the court states:

> O'Conner writes,"Remaining true to an 'intrinsically sounder' doctrine established in prior cases better serves the values of Stare Decisis than would follow a more recently decided case inconsistent with the decisions that came before it; the latter course would compound the recent error, and would likely make the unjustified break from previously established doc-

trine complete. In such a situation, 'special justification exists to depart from the recently decided case."

and this case was presented to the Court of Appeals in Petitioner's ADDENDUM TO PETITION FOR REHEARING EN BANC, a true copy appears in Exhibit N0SC8 Appendix H. When Petitioner petitioned the federal courts for a writ of habeas corpus under the judicial power of the courts, the courts simply ignore and/or deny your Petitioner a habeas corpus proceeding when and where he is unlawfully restrained of his constitutional right to Liberty. They rationallize their thought with their erronous case law to avoid making a constitutional judgment on the merits and the facts of the case. After the State appeals and supreme courts denied your Petitioner the relief that he deserves, he applied to the federal courts where they sum up the issues that they presented to deny your petitioner a hearing on the merits of his cases in their distorted, inaccurate and convoluted Magistrate Judge's Report and Recommendation of February 19, 2002 a copy appears in Exhibit N0SC6 Appendix F. Using the Mootness Doctrine, the court's report says that petition is due to be dismissed as "moot" by puting up obstacles to overcome in the form of saying that petitioner does not suffer any "collateral consequences" as being a requirement for a habeas hearing to be granted, incorrectly says that petitioner's sentences has expired and further that Petitioner is the cause of this unlawful restraint of his Liberty by the State because he won't get a license that he is not required to have.

Supporting law for petitioner's habeas corpus case is:

5.1a. Para.15-21-1 Alabama Code. Any person who is imprisoned or restrained of his liberty is the States of Alabama of any criminal charge or accuation or any other pretense whatever, .. , may prosecuts a writ of habeas corpus according to the provisions of this

chapter to inquire into the cause of such imprisonment or restraint and,

5.1b. ... It is clear that where a person is detained for doing certain acts which neither at common law or under the law of the particular state constitute any offense the court has no jurisdiction, since jurisdiction in this class of cases depends upon the violation of some law, and therefore habeas corpus will issue where this state of facts is alledged by the applicant, or where it is admitted in the return.57 A.L.R. 86, 87, Alabama State v. Johns (1904) 142 Ala. 61, 38 So. 755.

5.1c The rational of this doctrine is that in criminal cases the jurisdiction of the court extends to such matters that the law has declares criminal, and none others and when a court undertakes to punish for an offense to which no criminality attaches, however reprehensible the offense may be in the forum of conscience, ths court acts beyond its jurisdiction. An indictment, information, or written actuation is the very groundword of the whole superstructure of a prosecution for the commission of an offense. If such information contains allegations of overt acts of conduct which does not constitute any crime known in the law, or undertakes to state an offense, but the facts stated do not constitute the offense, and no addition to them, however full, and complete, can supply what is essential, the court is without jurisdiction to put the accused on trial. In such cases the judgement or conviction cannot be corrected. It is simply void. Imprisonment thereunder is illegal, and the accused is entitled to his release in a habeas corpus proceeding, even though he might secure the same relief on appeal. 57 A.L.R. 86, 87, Alabama State v. Johns (1904) 142 Ala. 61, 38 So. 755 and,

5.2 Now your Petitioner cites

Article III, Section 2 and the Original Judiciary Act of 1789 as his authority for having this Court give him his right to a habeas corpus hearing. The Congressional act of March 3, 1885 gives the State authority to proceed unlawfully against petitioner in a State court before he can have his constitutional right to habeas corpus in federal court. Essentially it nullifies the writ which is part of the common law and that is the law of the land which the constitution is built on.

5.3 So the State and federal courts have turned the law around. Where the State court has no in persona jurisdiction over your Petitioner under the law, they take jurisdiction unlawfully and where the federal courts have jurisdiction under the constitution to hear your Petitioner's habeas corpus, they deny a hearing.

6. CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved in this case in the Constitution of the United States,

Preamble,.

Right to Life, liberty and Pursuant of Happness.

Article I.Section 9, clause 2. The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.Article I. Section 10. No State shall ..., ...; make any Thing but gold and silver Coin a Tender in Payment of Debts; ...

Article III. Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this

Constitution, ...

In all Cases ... , and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction.

Article VI. "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;...shall be The supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary not one word withstanding." , and,

In the same Article, it says just who within our government that is bound by this Supreme Law:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution..." Articles of Amendment IV.(1791). The right of the people to be secure in their persons, ... against unreasonable searches and seizures, shall not be violated, no warrants shall issue, but upon probable cause,... , and particularly describing the place to be searched, and the persons or things to be seized.

Articles of Amendment V.(1791). No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury ...; ..nor be deprived of life, liberty, or property, without due process of law;...

Article of Amendment VI. (1791). In all criminal prosecutions, the accused shall enjoy the right ...; to be informed of the nature and cause of the accusa-

tion; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor ... .

7. EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS

7.1 Again, comes now your Petitioner, John Dennis Snavely, a Citizen within the meaning of the Constitution of the United States of America (1791), of the People of the Sovereign Body Politic of the Commonwealth of Pennsylvania, sui juris, in propria persona, and petitions this Honorable Court of Law for a Writ of Habeas Corpus through the authority of Article III, of the Constitution for the United States of America and states:

7.2 Your Petitioner, on six separate incidents, has been unlawfully arrested, imprisoned, prosecuted and convicted in the City of Huntsville, Alabama and State of Alabama courts thus is being unlawfully restrained of his Liberty. The State of Alabama Supreme Court reversed the convictions for driving on revoked driver's license and let the driving without driver's license, driving without license tag, and not wearing seat belt convictions and order not to drive until he gets a license stand.

7.3 Your Petitioner has 10 days of jail time to serve and has been ordered not to drive until he gets his license to drive, thus being restrained of his Liberty.

7.4 The issues involved in this petition are your petitioner's constitutional right to Liberty and the violation of his of his rights in Article of Amendment IV. (1791), Article of Amendment V. (1791) and Article of Amendment VI. (1791).

7.5 The State of Alabama is misapplying their motor vehicle code to non-commercial applications, as to your petitioner and declaring him to be a criminal where as in these

cases he is only exercising his constitutional right to Liberty/ Travel, where the motor vehicle code is only for commercial applications and your petitioner is not within the scope and jurisdiction of the statute.

7.6 The State of Alabama's Title 32 motor vehicle code is also unconstitutional in that at 32-6-4 police powers are used to collect taxes in that a portion of the tax goes to the general fund, and at 32-5-192 if a person gets the license, he has to give up his right not to give testimony against himself.

7.7 The statement of case and the facts are stated in para. 2.2, supra and simply stated Snavely is unlawfully arrested when he is only exercising his constitutional right to Liberty/ Travel under the constitution of the united States as well as that he is not within the scope and jurisdiction of the statue Title 32 Alabama Code.

7.8 There is a clear conflict of law between the 9th Circuit's State of California's Motor Vehicle Code and how the State of Alabama wants to interpret the Motor Vehicle Code. Section 260 of the California Motor Vehicle Code says:

> Section 260. (a) A "commercial vehicle" is a vehicle of a type required to be registered under this code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property.
>
> (b) Passenger vehicles which are not used for the transportation of persons for hire, compensation, or profit and housecars are not commercial vehicles.
>
> (c) Any vanpool vehicle is not a commercial vehicle.

The State of California properly applied their law to your

petitioner when they properly dismissed the identical charges that are in this instance case, in the interest of justice, as shown in these cases against your petitioner in People v. Snavely, John Dennis, Case No. SI278365A, IN THE MUNICIPAL COURT, SOUTHERN BRANCH OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN MATEO, a true copy of ORDER is attached hereto, thereby making it part hereof, Marked Exhibit N0SC9, Appendix I.

7.9 Now Petitioner is petitioning this Honorable Court of Law with this Petition for a Writ of Habeas Corpus to get a hearing and a ruling of this action to prove that he was and is unlawfully being restrained of his Liberty. There has never been a habeas corpus hearing held is this case or decision made as to the lawfulness of the imprisonment and restraint of his Liberty; and,

7.10 Petitioner has at no time made a lawful application for a special priviledge of inclusion as part of a special class of persons with the United States, is not a member of the organized armed forces of any government, is not a resident or subject of the District of Columbia and/or its territories and therefore denies being subject to the plenary legislative authority of the United States as is his Right as a Citizen as above said; and,

7.11 Petitioner has at no time made a lawful application for a special priviledge or inclusion as part of a special class of persons with the State of Alabama as is his Right as a Citizen as above said; and,

7.12 Petitioner has at all times and here again asserts the limitations of Article I, Section 10, of the Constitution of the United States of America upon the Stats of Alabama insofar as it concerns your Petitioner, and further asserts that he would only be a party to any bankruptcy of the United States and/or use Federal Reservs Notes in lieu of lawful

Money in Payment of Debt over his objection, under threat, duress, and coercion; and,

7.13 Petitioner objects to the prosecution and courts using, by spelling, his name JOHN DENNIS SNAVELY with all capital letters, when his name is John Dennis Snavely. He is not a fictitious person and knows of no legal document or contract that warrants his name to be spelled that way.

8. STATEMENT OF SUPPORTING LAW

Supporting law to support that Petitioner has right to travel unlicensed is:

8.1 No State has ever outlawed or had any authority to outlaw the right to travel by motor vehicle or any other mode of travel by individuals not engaged in the act of hauling passanger or cargo for profit.

Here are some of these cases:

> Case #1: "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived." Chicago Motor Coach v. Chicago, 169 NE 221.

> CASE #2: "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness." Thompson v. Smith, 154 SE 579.

It could not be stated more directly or conclusively that citizens of the states have a common law right to travel, with-

out approval or restriction (license), and that this right is protected under the U.S Constitution.

> CASE #3: "The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment." Kent v. Dulles, 357 US 116, 125.

> CASE #4: "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right." Schactman v. Dulles 96 App DC 287, 225 F. 2d 938, at 941.

> CASE #5: The State can place no restrictions on constitutional protected rights. "The state cannot diminish rights of the people" Hertado v. California, 110 US 516.

> CASE #6: "Statutes that violate the plain and obvious principles of common right and common reason are null and void." Bennett v. Boggs, 1 Baldw 60,

Would we not say that these judicial decisions are straight to the point -- that there is no lawful method for government to put restrictions or limitations on rights belonging to the people?

Other cases are even more straight forward:

> CASE #7: "The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." Davis v. Wechsler, 263 US 22, at 24,

> CASE #8: "Where rights secured by the Constitution are involved, there can be no rule making or legislation

which would abrogae them." Miranda v. Arizona, 384 US 436, 491.

CASE #9: "The claim and exercise of a constitutional right cannot be converted into a crime." Miller v. US, 230 F 486, at 489.

CASE #10: There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." Sherer v. Cullen, 481 F. 946.

Petitioner could go on, quoting court decision after court decision; however, the Constitution itself answers our question - Can a government legally put restrictions on the rights of the American people at anytime, for any reason? The answer is found in Article Six of the U.S. Constitution:

Article VI. "This Constitution, and the Laws of the United States which shall be made in Pursuance there of;... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary not one word withstanding."

In the same Article, it says just who within our government that is bound by this Supreme Law:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution..."

CASE #11: 1 ... Citizens who involve themselves in commerce upon the highways of the state. Here is what the courts have said about this: "... For while a

> citizen has the right to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways...as a place for private gain. For the latter purpose, no person has a vested right to use the highways of this state, but it is a privilege..which the (state) may grant or withhold at its discretion ..." State v. Johnson, 245 P. 1073.
>
> CASE #12: All laws which are repugnant to the Constitution are null and void Marlbury v. Madison 5 U. S. 137, 174, 176 (1 CRANCH 1830).

and the California Motor Vehicle Code which clearly states:

> Section 260. (a) A "commercial vehicle" is a vehicle of a type required to be registered under this code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property.
>
> (b) Passenger vehicles which are not used for the transportation of persons for hire, compensation, or profit and housecars are not commercial vehicles.
>
> (c) Any vanpool vehicle is not a commercial vehicle.

And as we have seen, traveling freely, going about one's daily activities, is the exercise of a most basic right.

9. CONCLUSION

Petitioner has come to this Court of last resort to get a constitutional remedy for the unlawful restraint of his Liberty. A starting point for this conclusion is the Magistrate Judge's Report and Recommendation of Feb.19, 2002, Exhibit

N0SC6. This is an example that shows that petitioner presented his habeas corpus in good faith to the district court as well as to all of the lower courts for a constitutional remedy for the unlawful restraint of his Liberty. The magistrate instead of practicing constitutional law on your petitioner's claims practices Judicial ignoratio elenchi.

Petitioner started his first habeas corpus action when he was imprisoned in the Madsion County jail in the State courts and then into the federal district court. Cases of the same type go back to 1992 thru 2000, and each time petitioner has taken action to get his constitutional rights respected in the district court where he has been meet with hateful opposition from the court practicing Judicial ignoratio elenchi.

The magistrate cited the Congressional Act of March 3, 1885 as statutory authority for giving the State authority to prosecute petitioner before petitioner can have standing in the federal courts to prosecute his habeas corpus petition as well as other unapplicable case law that diminshes petitioner's constitutional right to Liberty and due process in the federal courts. Congress has no constitutional Power to diminish Petitioner's constitutional rights to Liberty and due process.

The magistrates confuses the cases by introducing nonsensical arguments that have nothing to do with the cases or the constituitional law that is required to adjudicate these habeas corpus petitions. Instead of laying the law down beside the facts of these cases, he pretends that he is practicing law by bring up an imaginary doctrine that includes false requirements that petitioner has to meet in order to get his habeas corpus hearing. He imagines that there is an "in custody" requirement that is different than that cited in 57 A.L.R. 86, 87 Alabama State v. John (1904) 142 Ala. 61, 38 So. 755. He imagines that there is a "successiveness" requirement that somehow petitioner is responsible for when it is the State that is violating petitioner's constitutional rights but does say that petitioner is

not being "successive". He imagines that there is a "mootness" doctrine requirement that there has to be some imaginary relief available in order for the court to give petitioner actual relief that the petitioner is requesting when the petitioner has obviously demostrated beyond a reasonable doubt exist. Petitioner has at least a 10 days sentence of imprisonment pending the outcome of this petition and the issue of petitioner's right to Liberty has not been determined. Statute 28 U.S.C. Section 2254 has been unlawfully imposed on your petitioner and petitioner has exhausted his State remedies as imposed on him by the federal courts. If Statute 28 U.S.C. Section 2254 requires your petitioner to be subject to these three and other imaginary things that the courts have created a doctrine for, petitioner does not want the Statute 28 U.S.C. Section 2254 to be the authority that invokes the jurisdiction of this Court. Constitutionally all petitioner needs to invoke the jurisdiction of this Court is :

> Constitution of the United States of America, Article III, Section 2. "The judicial Power shall extend to all "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, ... ; to controversies between ... ., and
>
> In all Cases ... , and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. .... ."; and
>
> the Original Judiciary Act of 1789, and Constitution of the United States of America,
>
> ARTICLE I, Section 9, para. 2. "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it., and

he has done that.

Petitioner has never had a habeas corpus hearing on any of the cases that he presented to any court and Respondents have never shown cause for the restraint of his Liberty.

The magistrates confuses the cases further, by practicing Judicial ignoratio elenchi, in that he makes his decisions by talking about the convictions and never the unlawful restraint of petitioner's Liberty which was the issue before the district court which would include the unlawful imprisonment, convictions and prosecutions.

The district court is using imaginary law that does not constitutionally exist and it has to do with how the practice of "Stare Decisis" has and is being used. The lower federal and State courts have made errors by misapplying constitutional law, the statutes and the doctrine of Stare Decisis law to Petitioner as is discussed by this Court where this Court recognized that error recently in the case of Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995) where the court states:.

> O'Conner writes,"Remaining true to an 'intrinsically sounder' doctrine established in prior cases better serves the values of Stare Decisis than would follow a more recently decided case inconsistent with the decisions that came before it; the latter course would compound the recent error, and would likely make the unjustified break from previously established doctrine complete. In such a situation, 'special justification exists to depart from the recently decided case."

Petitioner clearly stated the law and facts of his cases each time he presented one to the district court in that he was being unlawfully restrained of his Liberty by the respondents. The district court delayed a hearing on each of the actions until a number of them were combined into CV-00-TMP-0440-NE by the court.

This Court now has some picture as to what has happened in your Petitioner's effort to get justice in the federal and State court. He wants no more and no less then his constitutional rights that are due him and he has been denied justice in all other courts.

Therefore, Petitioner brings his Petition for a Common Law Writ of Habeas Corpus to this Court of last resort and ask this Court to have a hearing on this matter immediately.

9. PRAYER FOR RELIEF

Wherefore, Petitioner, John Dennis Snavely, avers that the restraint of his Liberty and his imprisonment were and are unlawful and prays this Honorable Court of law to exercise its Judicial power, take jurisdiction over this matter, order up the records, order the State of Alabama and the City of Huntsville to show cause, and order a hearing at the soonest possible time for the purpose of examination into the cause of John Dennis Snavely's restraint of his Liberty including imprisonment that Right, Liberty and Justice will prevail.

SUBSCRIBED this 20 th day of _February, 2003, in the county of Madison, 23rd Judicial District, Alabama.

Respectfully Submitted.

John D. Snavely

John Dennis Snavely
23rd Judicial District
c/o 3516 Maggie Avenue
Huntsville, Alabama

state of Alabama)
affirmed:
23rd Judicial District)
county of Madison)

I, John Dennis Snavely, the Petitioner in the attached Emergency Petition for a Writ of Habeas Corpus, upon due affirmation, hereby state that the facts stated in the above said Petition are true and correct to the best of my knowledge and understanding and are presented in good faith; and,

FURTHER AFFIANT SAITH NOT.

AFFIRMED AND SUBSCRIBED this 20th day of February, 2003, in the county of Madison, 23rd Judicial District, Alabama.

John D. Snavely
John Dennis Snavely
23rd Judicial District
c/o 3516 Maggie Avenue
Huntsville, Alabama

We, ths undersigned, witness this day that the one known to us to be the above signator did personally appear before us in the county of Madison, 23rd Judicial District, Alabama, and upon due affirmation did execute and affix the above signature hereto.

Muriel Robbins L.S., a Citizen in Alabama,
2 20,2003

Gladys Faulk L.S., a Citizen in Alabama,
2 ,20 2003

Glen C Patterson L.S., a Citizen in Alabama,
2 ,20,2003

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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 02-11685
Non-Argument Calander

D.C.Docket No.00-00440-CV-J-NE

JOHN DENNIS SNAVELY
Petitioner-Appellant,

versus

STATE OF ALABAMA
CITY OF HUNTSVILLE
Respondents-Appellee.

Apeal from the
United States District Court
for the Northern District of Alabama

(September 9, 2002)

Before TJOFLAT,BIRCH and BARKETT,
Circuit Judges.

PER CURIAM:

Petitioner was not "in custody" at the time he filed his 28 U.S.C. Section 2254 petition. Accordingly, the judgment of the district court is AFFIRMED.

EXHIBIT N0SC1

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 02-11685
Non-Argument Calander

D.C.Docket No.00-00440-CV-J-NE

JOHN DENNIS SNAVELY
Petitioner-Appellant,

versus

STATE OF ALABAMA
CITY OF HUNTSVILLE
Respondents-Appellee.

Apeal from the
United States District Court
for the Northern District of Alabama

(December 30, 2002)

ORDER:

Appellant's "Motion to file Addendum to Petition for Rehearing" is construed as a Motion for Suspension of the Rules is denied.

UNITED STATES CIRCUIT JUDGE

EXHIBIT N0SC2

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-11685
Non-Argument Calander

JOHN DENNIS SNAVELY
Petitioner-Appellant,

versus

STATE OF ALABAMA
CITY OF HUNTSVILLE
Respondents-Appellee.

Apeal from the
United States District Court
for the Northern District of Alabama

(December 30, 2002)

ON PETITION(S) FOR REHEARING AND PETITION(S) EN BANC
(Opinion_____, 11th Cir., 19__,_____F.2d_____).
Before TJOFLAT,BIRCH and BARKETT, Circuit Judges.

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Procedure), the Petition(s) for Rehearing En Banc are DENIED.

_____
UNITED STATES CIRCUIT JUDGE

EXHIBIT N0SC3

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERNB IVISION

JOHN DENNIS SNAVELY
Petitioner,

vs.

STATE OF ALABAMA
CITY OF HUNTSVILLE
Respondents. No. CV 00-00440-CV-TMP-NE
Entered (March 7, 2002)

ORDER

On February 19, 2002, the magistrate judge filed his report and recommendation in the above-styled cause, recommending that this petition for habeas corpus relief filed pursuant to 28 U.S.C.Section 2254 be dismissed as moot. The petitioner filed his objections on February 28, 2002.

Having now carefully reviewed and considered de novo all the materials in the court file, including the report and recommendation and the petitioner's objection thereto, the Court is of the opinion that the report is due to be and hereby is ADOPTED, and he recommendation is ACCEPTED. Consequently, the petition for writ of habeas corpus filed pursuant to 28 U.S.C. Section 2254 in the above-styled cause is due to be and the same is hereby DISMISSED as MOOT.

DATED this__7__ day of march, 2002.

INGE P. JOHNSON
U.S. DISTRICT JUDGE

EXHIBIT N0SC4

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERNB IVISION

JOHN DENNIS SNAVELY
Petitioner,

vs.

STATE OF ALABAMA, et al.,
Respondents.

No. CV 00-00440-CV-J-NE
Entered (March 14, 2002)

MOTION FOR RECONSIDERATION

Denied. 3/14/02

DATED this__14__ day of march, 2002.

INGE P. JOHNSON
U.S. DISTRICT JUDGE

EXHIBIT N0SC5

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

JOHN DENNIS SNAVELY
Petitioner-Appellant,

vs.

STATE OF ALABAMA et al.,
Respondents.

No. CV 00-00440-CV-TMP-NE
Entered (February 19, 2002)

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This case is before the court on the petition for writ of habeas corpus filed by the petitioner, John Dennis Snavely, on November 28, 2000. Petitioner asserts that he is seeking relief pursuant to 28 U.S.C. Section 2254 because he is "unlawfully restrained of his liberty by virtue of the City of Huntsville['s] and [the] State of Alabama's actions against him." petitioner is challenging eight separate convictions, which are addressed in the court's discussion of somewhat convoluted procedural of these claims, infra. In accordance with the usual practices of this Court and 28 U.S.C. Section 636(b)(2), the petition was referred to the undersigned magistrate judge for a preliminary review and recommendation.

PROCEDURAL HISTORY

The petitioner is no stranger to this court, having filed six previous habeas petitions in this court.See Snavely v. Madison County Jail, CV-96-HM-550-NE, Snavely v.Clerk of Madison County, CV-96-AR-2010-NE, Snavely v.Clyde Blankenship, et al., CV-97-C-1863-NE, Snavely v.Joe W. Whisante,CV-98-H-1947-NE, Snavely v. City of Huntsville, CV-98-H-2477-NE, et al., CV-97-C-1863-NE, Snavely v. Joe W. Whisante, CV-00-AR-720-NE. [note 1] All of the habeas corpus cases arises from petitioner's many convictions from traffic violations. Snavely has been repeatedly been charged with traffic violations for driving without a license, failing to have the proper license plate or "tag" on his vehicle, failing to wear a seat belt, and driving with revoked license. it appears that the petitioner's conduct stems from his strongly held conviction that the Alabama Motor Vehicle Code does not apply to him because he does not operate a commerical vehicle. Petitioner's contentions have remained consistent throughout his campaign of seeking relief in state and federal courts from his convictions for traffic offenses. In sum, petitioner asserts that the state motor vehicle statutes he has been charged with violating do not apply to him, and that the

---

[note 1] Additionally, petitioner filed an employment discrimination case in 1995, Snavely v. McDonnell Douglas, CV-95-H-2781-NE, which was transferred to the Eastern District of Missouri on October 26, 1995.

statues are unconstitional. He further asserts that he has been denied due process in adjudicating his claims.

In the petition that has commenced this action, petitioner asserts that he is seeking relief from three convictions he received on February 10, !998, in Madison County Circuit

Court for driving without a tag (CC-97-1365), driving without a seat belt (CC-97-1384).[note 2] He was sentenced to pay fines and court costs on the tag violation. For the seat belt and revoked convictions, he received two concurrent terms of 10 days in jail and was ordered to pay court costs. He appealed, and the Alabama Court of Criminal Appeals affirmed the convictions by memorandum opinion dated August 14, 1998. His application for rehearing was overruled, and the petitioner then filed a petition for a writ of certiorari in the Alabama Suoreme Court. By opinion dated February 11, 2000, the Alabama Supreme Court reversed the Alabama Court of Criminal Appeals to the extent that it had affirmed the conviction in CC-97-1384 for driving on revoked license. The opinion did not reverse the Alabama Court of Criminal Appeal's affirmatance of the convictions for driving without a tag or seat belt, however.

[note 2] petitioner concedes that the conviction for driving with a revoked license (CC-97-1384) was reversed by the Alabama Supreme Court. Accordingly, petitioner already has been granted relief on this claim.

On February 29, 2000, the court entered an order to show cause, and the City of Huntsville responded on March 17, 2000, asserting that the petitioner does not meet the "in custody" requirement of Section 2254, and that the petition is due to be dismissed as moot.

By order of April 6, 2000, the parties were notified that the petition would be considered for summary disposition, and the petitioner was notified of the provisions and consequences of this procedure under Rule 8 of the Rules Governing Section 2254 Cases. Petitioner filed a response to the order on April 12, 2000, asserting that he was denied due process in the state's court adjudication of the two convictions at issue. On May 3, 2000, the respondant State of Alabama filed an answer, asserting that the petitioner's claim relating to interpretation

of the state's motor vehicle statutes were adjudicated on the merits by the state courts and the claim is not one upon which habeas relief may be granted, and that any remaining claims are procedurally defaulted. On may 5, 2000, the couirt entered a second order regarding summary disposition.

On May 9, 2000, petitioner filed a response to the state's answer. Petitioner stated that he is seeking "direct review" of the two 1998 convictions because the Alabama Supreme Court did not review those appeals when it reversed the conviction for driving with a revoked license. Furthermore, petitioner states that his

action, set forth as a Section 2254, petition is actually a "challenge to the constitutionality of [Alabama's] motor vehicle code."

On November 28, 2000, petitioner filed another document titled "Petition for a Writ of Habeas Corpus," supported by exhibits, which which the court deremed to be an amendment to the instant petition. It challenges additional convictions he received on January 6, 2000, in Madison County Circuit Court for driving without a tag (CC-98-236), driving with a revoked license (CC-98-237). Upon conviction, petitioner was sentenced to 60 days in jail, one year of probation, and a fine in connection with the revoked license conviction. The sentence for the convictions for tag and seat belt violations were fines and costs, but no jail or probation was imposed. Petitioner appealed his convictions on three 1998 charges in the Madison County Circuit Court to the Alabama Court of Criminal Appeals. The appellate court on June 30, 2000, affirmed as to the convictions for driving without a tag and failure to use a seat belt, but reversed as to the conviction for driving with a revoked license and remanded for entry of an order vacating that conviction. Petitioner sought review of the Alabama Court

of Criminal Appeals opinion, but the Alabama Supreme Court on Nov. 17, 2000, denied his ptition for Writ of Certiorari. In the amended petition of November 28, 2000, petitioner asserts the same grounds for relief as set forth in the orginal petition.

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In response to the court's December 11, 2000, order to show cause, respondents filed an answer to the amended petition on Fevruary 8, 2001, asserting that the claim relating to interpretation of Alabama's statutes is not a claim upon which relief can be granted, and that the claim relating to the constitutionality of the statutes and other claims are procedurally defaulted. In, addition, respondents asserts that petitioner does not meet the "in custody" requirement of Section 2254.

On February 14, 2001, the court entered another order regarding summary disposition. On February 15, 2001 petitioner filed an objection to respondents' answer, asserting, inter alia, that he is "in custody" for purposes of Section 2254 jurisdiction because this court adjudicated the "in custody" issue in a previous habeas action arising from other convictions. On February 23, 2001, petitioner filed response to the order regarding summary disposition asserting that he is "factually innocent" of the crimes charged.

On April 3, 2001, petitioner filed yet another amendment to the instant petition, this time challenging convictions he recieved in May 2000 in Madison County Circuit Court for driving without a license (CC-99-1839, driving without a tag (CC-99-1840), driving without a seat belt (CC-99-1841, and failure to obey a lawful order of a police officer ((CC-99-1842). He was sentenced to 10

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days in jail on the failure-to-obey conviction, and ordered to pay fines and court costs on the remaining convictions.

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On June 7, 2001, repondents filed an answer to the second amended petition, stating that the claims are ptocedurally barred, and that petitioner does not meet the "in custody" requirements of Section 2254. ON June 11, 2001, petitioner filed an objection to the amended petition. The court entered its fourth order regarding summary disposition on July 2, 2001, and petitioner filed a response on July 9, 2001.

SUCCESSIVENESS

In his second amended petition, petitioner challenged the same conviction made the subject of his most recent habeas action in this court, Snavely v Joe W. Whisante, et al., CV-00 -AR-720-NE. On June 4, 2001, the undersigned magistrate judge recommended that the claims be dismissed without prejudice because the action was premature, in that petitioner's convictions were on appeal in the state court, and that petitioner did not meet the "in custody" requirement of Section 2254. The recommendation was adopted and accepted by the district judge on July 2, 2001, and the action was dismissed without prejudice. All of petitioner's other habeas actions appear to attack other convictions not challenged in the instant petition and amend-ments. Accordingly, the instant petiton

is not sucessive, even though petitioner has filed many previous habeas petition.

THE "IN CUSTODY" REQUIREMENT

There are two separate and distinct issues in this matter pursuant to the "in custody" requirement of 28 U.S.C. Section 2254: jurisdiction and mootness. Jurisdiction is established if the habeas petitioner is "in custody" when the orginal complaint is filed. Carafas v. LaVallee, 391 U.S. 234, 88 S.Ct. 1556, 20 L.Ed. 2d 554 (1969). The petitioner's subsequent release from custody prior to the completion of the proceedings has noeffect on jurisdiction. Leonard v.Hammond, 804 F.2d 838, 842(4th

Cir, 1986). "(O)nce the federal jurisdiction has attached in the District Court, it is not defeated by the release of the petitioner prior to completion of the proceedings on such application." Carafas, 391 U.S. at 238. Furthjermore custody may consist of actual physical incaration or other significant limitations of the petitioner's liberty, such as probation, parole, or bond supervision. Maleng v. Cook, 490 U.S. 488, 490-491, 109 S.Ct. 1923, 104 L. Ed. 2d 540 (1889); see also Jones v. Cunningham, 371 U.S. 236, 83 S. Ct. 373, 9 L.Ed. 2d 285 (1963); Hensley v. Municipal Court, 411 U.S. 345, 93 S.Ct 1571, 36 L. Ed. 2d 294 (1973). A mere fine as pumish ment for an offense, however, is not

sufficient custody to invoke habeas jurisdiction. Duvallon v Flordia, 691 F.2d 483 (11th Cir 1982).

In the case at bar, most of petitioner's convictions resulted only in the imposition of fines. The only convictions that resulted in orders of incaration were his February 1998 sentence often days, and a May 2000.[note 3] There is no indeication that petitioner was in physical custody when he filed the instant petition on February 23, 2000, or that he was under any other limitation that might invoke habeas jurisdiction. Accordingly, the court finds that "in custody" requirement is not met, and the court has no jurisdiction over the petitioner's habeas claims. For this reason, the petitioner is due to be dismissed.

MOOTNESS

Even if petitioner met the "in custody" requirement, however, his petition still would still would be due to be dismissed on grounds that his claims are moot. Mootness is a question of whether there is any relief available to the petitioner which may be granted by the court. For instance, if the relif sought is may is relief from custody, it would appear that there is no relief available and the matter is moot. However, the

[note 3] The sentences he received in 1998 and 2000 for driving with a revoked license were reversed on appeal.

United States Supreme Court recongnized in Carafas that the habeas statute does not limit the relief available to a habeas petitioner to discharge from physical custody. Carafas, 391 U.S. at 239; see also 28 U.S.C. Section 2243.

The courts have developed two exceptions to the mootness doctrine: (1) collateral consequences and (2) matters "capable of repetition yet evading review." Carafas, 391 U.S. at 237; Murphy v. Hunt, 455 U.S. 478, 482, 102 S.Ct. 1181, 71 L. Ed. 2d 353 (1982). collateral consequences of the type that are sufficient to overcome mootness include subsequence sentence enhancement as a result of a prior conviction, and the loss of such civil rights as the right to vote, to hold public office, to serve as a juror, and to enter certain professions. See North Carolina v. Rice, 404 U.S.244, 247 n.1, 92 S.CT.402, 309 L.Ed.2d (1971). These civil penalities furnish a petitioner with " a substantial stake in the judgment of conviction which survives the satification of the sentence imposed on him" Carafas, 391 U.S. at 237 (quoting Fiswick v. United States, 329 U.S. 211, 222, 67 S.Ct. 224, 91 L. Ed. 196 (1946).

In Broughton v. State of North Carolina, 717 F.2d 147 (4th Cir. 1983), the petitioner was convicted for criminal contempt for her outburst during a trial. She was sentenced to thirty days in jail and, after state appeals, filed a 28 U.S.C. Section 2254 petition in federal court. The petition was dismissed as moot because the

petitioner had not suffered any collateral legel consequences as a result of her conviction. The court stated:

[The petitioner] will suffer none of these collateral conse-

quences as a result of her misdemeaner contempt conviction. The contempt conviction, for example, will not prevent her from voting[citations omitted], serving on a jury [citation omitted], obtaining a license to practice law[citation ommited], becoming an official of a labor union, or qualifying for state elective offices [citation omitted]. Nor will the criminal conviction expose her to to the possibility of an enhanced sentance if she commits a later criminal act [citation omitted]. In sum, [the petitioner] will suffer no collateral legal consequences as a result of her challenged conviction, lane v. Williams, 455 U.S. 624, 102 S.Ct. 1322, 71 L.Ed. 2d 508 (1982); see also Sibron v. New York, 392 U.S. 40, 88 S.Ct. 1889, 20 L.Ed. 2d 917 (1968; United States v. Sultani, 704 F.2d 132 (4th Cir.1983) hence, her unconditional release from state custody has ended the controversy.

717 F.2d at 149.

Likewise, the petitioner in the present case has received an unconditional release from his very brief times in state custody, and he will suffer no collateral legal consequences as a result of his conviction for failure to obey a lawful order of a police officer or from his numerous convictions for driving without a license, without a proper tag, or without fastening his seat belt. These offenses are neither felonies, Alabama Code Section 32-6-1 (1975); Section 32-6-51, and Section 32-5B-4, nor crimes of moral turpitude. See Rx parte McIntosh, 443 So. 2d 1283 (Ala. Crim. App 1983).

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The only harm that the petitioner may have is a blemish on his record.The Elevanth Circuit rejected the argument in Malloy v. Purvis, 681 F.2d 736 (11th Cir. 1982), that a blemish on one's record caused by a conviction was a sufficient collateral consequence to avoid the mootness of a habeas petition. The Eleventh Circuit elaborated:

> If this were the case, mootness would never be an issue in the resolution of habeas petitions because the mere fact of the conviction would always keep the petition alive. Taken to the extreme, this argument would call for treatment on the merits even in those instances where the petitioner was still allowed to vote or engage in certain professions, or where the conviction could not be used for enhancement purposes. Such a rule would require us to read the language of Carafas mentioned above as merely surpusage or dicta. We refuse to do so. If the Supreme court desired to hold that a conviction in and of itself constitutes a collateral consequence, the circumstances in Carafas present an ample opportunity for expressing such a rule that would effectively abrogate the meaning and purpose underlying requirement of proving collateral consequences.

681 F.2d at 738-39. Petitioner's varied traffic convictions do not carry with them any collateral consequences. Thus, the first exception to the mootness doctrine is lacking.

The exception for events "capable of repetition, yet evading review" applies when (1) the challenged action is too short in duration to be fully litigate prior to its cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subjected to the same action again.

Weinstein v. Bradford, 423 U.S. 147, 149, 96 S.Ct. 347, 46 L.Ed. 2d 350 (1975). Since the petitioner's sentences have expired, the only threat of repetition of the challenged action is if he is again charged with these same offenses, and he again is sentenced to jail or placed on bond. Such conjecture is too speculative to creat an actual controversy sufficient to support a claim for relief. Dudley v. Stewart, 724 F.2d 1943 (11th Cir. 1984). [note 4] Thus, the second exception to the mootness doctrine also is lacking. There is no longer any habeas relief which this court can grant to the petitioner. According,

the instant petition is due to be dismissed as moot.

RECOMMENDATION

Based upon the foregoing considerations, the magistrate judge recommends that the petition for relief under 28 U.S.C. Section 2254 be dismissed as MOOT. Any party may file specific written objections to this report and recommendation within fifteen (15) days from the date it is filed in the proposed findings and recommendations contained in this report and recommendation within fifteen (15)

[note 4] Even though the court concedes that petitioner's history makes it likely that petitioner will continue to violate the applicable traffic statutes, the repetition of these events is entirely within petitioner's control.

days from the date it is filed shall bar an agrieved party from attacking the factual findings on appeal.

The Clerk is DIRECTED to servea copy of this report and recommendation upon the petitioner and upon counsel for the Respondents.

DATED this __15th__ day of February, 2002

_____
T. MICHAEL PUTNAM
CHIEF MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERNB DIVISION

JOHN DENNIS SNAVELY
Petitioner-Appellant,

vs.

STATE OF ALABAMA, et al.,
Respondents. No. CV 00-00440-CV-J-NE
Entered (April 9, 2002)

ORDER

On March 7, 2002, the court adopted the report and recommendation of the magistrate judge and dismissed the above-styled petition for writ of habeas corpus on the alternative ground that either petitioner failed to meet the "in custody" requirement of 28 U.S.C. Section 2254 and that his claims were moot. Petition filed his notice of appeal from the court's action on March 25, 2002, together with a requist for a certificate of probable. the court will deem the request for a certificate of appealability. Having carefully reviewed and considered the request, the court is of the opinion that it is due to be and the same is hereby GRANTED. The particular issue on which the certificate is granted is whether the petition was correctly dismissed as failing to meet the "in custody" requirement of Section 2254 or on the basis of mootness when the petitioner is repeatedly arrested and jailed for short periods of time on misdemeanor traffgic violations. Because the incarceration associated with traffic violations are short (10-60), the petitioner is almost always released from custody prior to the filing, or at least by soon after the filing, of the habeas petitions in this court. Further, because the misdemeanor traffic violations carry no collateral consequences, his release from custody effectively moots the request for habeas relief. This court acknowledges that petitioner

will continue to be arrested and incarcerated on future traffic violations because of his firmly held belief that the Alabama Motor Vehicle Code does not apply to his or that it is unconstitutional.

Because the petitioner was allowed to proceed in forma pauperis in this court, the court will deem the notice of appeal to include a request for leave to appeal in forma pauperis. That request is due to be GRANTED.
DATED this 9 day of April, 2002

_____

INGE P. JOHNSON
U.S. DISTRICT JUDGE

3516 Maggie Avenue
Huntsville, Alabama
(256) 852-3009
December 6, 2002

Ms. Carol P. Lewis, Clerk
UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
56 Forsyth Street N. W.
Atlanta, Ga 30303
RE: No. 02-11685-F John Dennis Snavely v. State of Alabama DC DKT NO.: 00-0440-CV-J-NE

Ms Lewis:

This letter is in response to your letter returning of December 3, 2002 returning my ADDENDUM TO PETITION FOR REHEARING EN BANC to my case No. 02-11685-F on the ground that there is no provision in the Rule for filing an addendum to a petition for rehearing.

There is Rule 2 that allows for such filing under TITLE I, APPLICABILITY OF RULES.

Rule 2. Suspension of Rules.

"In the interest of expediting decision, or for as otherwise provided in Rule 26(b), suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction."

Therefore, please file this MOTION FOR SUSPENSE OF THE RULES and Petioner's ADDENDUM TO PETITION FOR REHEARING EN BANC to my case No. 02-11685-F.

RESPECTFULLY SUBMITTED,

John D. Snavely

John Dennis Snavely
Exhibit N0SC8

No. 02-11685-F

IN THE UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
56 Forsyth Street N.W.
Atlanta, Ga 30303

The people of Alabama
on the relation of
John Dennis Snavely,
Petitioner/Defendant/Appellant,
vs.
State of Alabama, et. al.,
Respondent/Prosecutor/Appellee.

Ref. Cuase No.
CV-00-J-0440-NE USDC

MOTION FOR SUSPENSION OF THE RULES

Now comes your petitioner/Defendant/Appellant John Dennis Snavely, from this Court's order of SEP 09, 2002, affirming the judgment of the district court, and makes him Motion for Suspension of Rules under Rule 2,

Rule 2.

"In the interest of expediting decision, or for as otherwise provided in Rule 26(b), suspend the requirements or provisions of any of these rules in a particular case on application of a party or on its own motion and may order proceedings in accordance with its direction.",

to adds an argument to his petition to this Court for a rehearing en banc, and states:

1. The information in Petitioner's ADDENDUM TO PETITION FOR REHEARING EN BANC is in the interest of expediting the decision of this case and for other good cause,

1a. The law that Petitioner presents in his addendum shows where the U.S. Supreme Court speaks directly to the error that is being made by the lower courts in this and many other cases.

1b. The question before this Court in this case has been recently in (1995) adjudicated in the U.S. Supreme Court and is the information that this Court needs to support a decicion in your Petitioner's favor,

1c. The error that has recently been corrected by the U.S. Supreme Court is an error that could have been made in many cases, for 50 years or more, and the lower courts need to address that error in this case,

1d. Since this error is such a serious error that was corrected by the U. S. Supreme Court in 1995 in Adarand Constructors, Inc. v. Pena. 515 U.S. 200(1995) the lower courts should have already have known about it since it is such an important case and your Petitioner should not have had to bring it to the attention of the lower courts.

For the above reasons this Court should suspen the Rules and file Petitioner's addendum to his PETITION FOR REHEARING EN BANC.

RESPECTFULLY SUBMITTED on this _6TH__day of December, 2002.

John D. Snavely

John Dennis Snavely, sui juris
Mastin Lake Station
3516 Maggie Avenue
Huntsville, Alabama
(256) 852-3009

CERTIFICATE OF SERVICE

I served a true copy of this APPELLANT'S APPEAL BRIEF upon the Respondents: Cecil G. Brendle, Jr and Bill Pryor, Office Attorney General for the State of Alabama, by placing a copy of same in the United States Mail, postage prepaid and addressed as follows:

Cecil G Brendle, Jr
Bill Pryor
Office of Attorney General
State of Alabama
11 South Union Street
Montgomery, Alabama 36130

Done this __6th__ day of December, 2002.

4 John D. Snavely

No. 02-11685-F
IN THE
UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT
56 Forsyth Street N.W.
Atlanta, Ga 30303
Ref: Cause No. CV-00-J-0440-NE USDC

The people of Alabama
on the relation of
John Dennis Snavely,
Petitioner/Defendant/Appellant,
vs.
State of Alabama, et. al.,
Respondent/Prosecutor/Appellee.

ADDENDUM TO PETITION FOR
REHEARING EN BANC

Now comes your petitioner/Defendant/Appellant John Dennis Snavely, from this Court's order of SEP 09, 2002,

affirming the judgment of the district court, and adds an argument to his petition to this Court for a rehearing en banc, and states:

The courts have been making an error by using their modern day convoluted usage of the doctrine of Stare Decisis and in 1995 the U.S. Supreme Court recognized that error and

modified the application of Stare Decisis in a way that brings the rebirth of the application of written law back to our courtroom. The Court issued a judgment authored by Sandra Day O'Connor that makes it possible to set aside the modern usage of the Stare Decisis method of adjudication. See Adarand Constructors, Inc. v. Pena 515 U.S. 200(1995).

> "O'Conner writes, remaining true to an 'instrinsically sounder' doctrine established in prior cases better serves the values of Stare Decisis than would follow a more recently decided case inconsistent with the decisions that came before it; the latter course would compound the recent error, and would likely make the unjustified break from previously established doctrine complete. In such a situation, 'special justification' exists to depart from the recently decided case."

Translated, this means, "If we are to be true to the idea of Stare Decisis, we must be free to abandon it." This decision makes it entirely proper under the Stare Decisis doctrine for a judge to ignore the erroneous idea presented by recently decided cases and reach back to earlier cases, even the law and Constitution themselves for guidance in reaching a just decision.

This decision changes the process of citing procedence into a whirlwind of subjectivity. The correct application of this Supreme Court decision demands a return to the objectivity of the citation of the law itself, showing how that law relates to Constitutional provisions. At very least, it means that any citation of a court case offered before these judges can now

legally be viewed as not necessarily relevant.

CONCLUSION

When this Court rehears en banc Petitioner's cases they should make their judgment in light of the above stated argument against their usual way of using the doctrine of modern day Stare Decisis to decide this case and give your Petitioner the justice he deserves.

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RESPECTFULLY SUBMITTED on this __22nd__ day of November, 2002.

John D. Snavely

John Dennis Snavely, sui juris
Mastin Lake Station
3516 Maggie Avenue
Huntsville, Alabama
(256) 852-3009

CERTIFICATE OF SERVICE

I served a true copy of this APPELLANT'S APPEAL BRIEF upon the Respondents: Cecil G Brendle, Jr and Bill Pryor, Office Attorney General for the State of Alabama, by placing a copy of same in the United States Mail, postage prepaid and addressed as follows:

Cecil G Brendle, Jr
Bill Pryor
Office of Attorney General
State of Alabama
11 South Union Street
Montgomery, Alabama 36130

Done this __22nd__ day of Nov., 2002.

John D. Snavely

H6

0241401 9/19/96
SAN MATEO CJIS 20:00
ORGANIZATION: MC PAGE 1

IN THE MUNICIPAL COURT SOUTHERN BRANCH
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

-- CRIMINAL CASE DOCKET --

CASE NO. SI278365A STATUS ADJUDICATED

PEOPLE V. SNAVELY, JOHN DENNIS
3516 MAGGIE AV DATE OF BIRTH: 09/19/33
HUNTSVILLE, AL D.L. #
****
CHARGES, PLEAS AND DISPOSITIONS:VIOLATION
VIOLATION
DATE:06/17/96 FILED DATE:06/19/96

CNT NO.	ALG NO. CODE/ SECTION	LATEST TYPE PLEA	CONV/DISP DISPOSITION DATE
001	VC 12500(A)	I	DISM-INTEREST JUSTICE 6/19/96
002	VC 4000(A)	I	DISM-INTEREST JUSTICE 6/19/96

****

0241401 9/19/96
SAN MATEO CJIS 20:00
ORGANIZATION: MC PAGE 2
-- CRIMINAL CASE DOCKET --
CASE NO. SI278365A
****
CASE SYNOPSIS:

06/17/96 ARRESTED BY 04127
06/17/96 BOOKED - JAIL NO.: SI278365A
06/17/96 COMPLAINT FILED
06/17/96 HEARING HELD IN DIV. 20
MUNICIPAL COURT SOUTHERN BRANCH
BEFORE HON. GREGORY S. JENSEN, JUDGE
NATUE OF PROCEEDINGS: ARRANGEMENT.
CUSTODY STATUS: NOT IN CUSTODY.
****
0241401 9/19/96
SAN MATEO CJIS 20:00
ORGANIZATION: MC PAGE 3
-- CRIMINAL CASE DOCKET --
CASE NO. SI278365A
****
RECORD OF CASE EVENTS:

06/19/96 11:07
CASE SHIFTED FROM HEARING ON 6/19/1996 AT
1:30 P.M. IN DEPARTMENT IC OF MUNICIPAL
COURT SOUTHERN BRANCH TO HEARINGON 6/19
/1996 AT 1:30 P.M. IN DEPARTMENT 20 OF
MUNICIPAL COURT SOUTHERN BRANCH.
13:30 **HEARING HELD ON 06/19/96 AT 1:30
P.M.IN DIV. 20 MUNICIPAL COURT SOUTHERN
BRANCH BEFORE HON. GREGORY S. JENSEN,
JUDGE,PRESIDING. CLERK: JUDY CARRIQUIRY.
REPORTER: TERRI GORMAN. CLERK2: TAMI
WALTON. DEPUTY D.A. JOHN OAKES. DEFENCE

COUNSEL PRESENT: NONE
NATURE OF PROCEEDINGS: ARRAINGMENT.
DEFENDANT APPEARED WITHOUT COUNSEL.
DEFENDANT ARRAIGNED AND ADVISED OF THE FOLLOWING RIGHTS: TO THE VARIOUS PLEAS AVAILABLE: TO SPEEDY PUBLIC TRIAL FROM THE DATE OF ARRAIGNMENT, WITHIN 30 DAYS IF IN CUSTODY, WITHIN 45 DAYS IF NOT IN CUSTODY, OTHERWISE THE MATTER MUST BE DISMISSED; TO THE AID OF THE COURT TO SUBPOENA AND PRODUCE WITNESSES ON OWN BEHALF, TO CONFRONT AND EXAMINE ADVERSE WITNESSES; TO A TRIAL BY JURY; IF CONVICTED, TO BE SENTENCED NOT SOONER THAN SIX HOURS NOR LATER THAN FIVE DAYS OR WITHIN 21 DAYS IF REFERRED TO PROBATION OFFICE; TO THE AID OF AN ATTORNEY AT ALL STAGES OF THE PROCEEDINGS; THAT THE COURT WILL APPOINT AN ATTORNEY IF DEFENDANT IS UNABLE TO EMPLOY OWN: TO A REASONABLE LENGTH OF TIME TO CONSULT AN ATTORNEY; DEFENDANT ADVISED, IF NOT A CITIZEN, THAT CONVICTION OF THE OFFENCE WITH WHICH HE HAS BEEN CHARGED MAY HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES.
CASE DISMISSED ON MOTION BY PROSECUTION.
DEFENDAnt is released on this case only.
****
END OF CRIMINAL CASE DOCKET
****

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JAMES P FOX
DISTRICT ATTORNEY
SAN MATEO COUNTY
STATE BAR NO. 45169
BY: KAREN M GUIDOTTI
DEPUTY DISTRICT ATTORNEY
603 HAMILTON ST
REDWOOD CITY, CA 94063

TELEPHONE: (415) 363-4677

ATTORNEYS FOR PLAINTIFF

MUNICIPAL COURT OF CALIFORNIA,

COUNTY OF SAN MATEO

SAN MATEO COUNTY JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA, PLAINTIFF V. *JOHN DENNIS SNAVELY 3516 MAGGIE AV HUNTSVILLE, AL AKA JACK SNAVELY DEFENDANT(S).	) EP CASE) DA CASE:) COM 0134650) (INFRACTION)) COMPLAINT) CRS 278365

I, THE UNDERSIGNEDS, SAYS, ON INFORMATION AND BELIEF, THAT IN THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA:

COUNT: 001, ON OR ABOUT 06/17/1996, JOHN DENNIS SNAVELY DID WILLFULLY AND UNLAWFULLY DRIVE A MOTOR VEHICLE UPON A HIGH-

WAY WITHOUT HOLDING A VALID DRIVER'S LICENSE ISSUED UNDER THE VEHICLE CODE OF THE STATE OF CALIFORNIA, IN VI0OLATION OF CALIFORNIA VEHICLE CODE SECTION 12500(A).

1.

COUNT 002, ON OR ABOUT 06/17-96, JOHN DENNIS SNAVELY DID WILLFULLY AND UNLAWFULLY DRIVE, MOVE, OR LEAVE STANDING UPON A HIGH-WAY A MOTOR VEHICLE WHICH HAD NOT BEEN REGISTERED AND FORT WHICH THE APPROPRIATE FEES HAD NOT BEEN PAID, IN VIOLATION OF CALI-FORNIA VEHICLE SECTION 4000 (A0) AN INFRAC-TION.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IŞ TRUE AND CORRECT EXCEPT FOR THOSE THINGS STATED ON INFORMATION AND BELIEF AND THOSE I BELIEVE TO BE TRUE.

EXECUTED ON 6-19-96, AT REDWOOD CITY, CA 94063.

V Braddard

AAK COMPLAINTANT

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